

# **EXHIBIT E**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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ORACLE AMERICA, INC., )  
Plaintiff, )  
vs. ) No. CV 10-03561 WHA  
GOOGLE, INC., )  
Defendant. )

\_\_\_\_\_)

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VIDEOTAPED DEPOSITION OF PETER KESSLER  
THURSDAY, FEBRUARY 16, 2012

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7 Videotaped Deposition of PETER KESSLER, taken on  
8 behalf of Defendant, at Morrison & Foerster, 755 Page  
9 Mill Road, Palo Alto, California, commencing at 2:30  
10 p.m., Thursday, February 16, 2012, before Sandra Lee  
11 Hockin, CSR 7372.  
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1 APPEARANCE OF COUNSEL:

2  
3 FOR PLAINTIFF ORACLE AMERICA, INC.:

4 BOIES, SCHILLER & FLEXNER, LLP

5 BY: FRED NORTON, ESQ.

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8 (510) 874-1000

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10  
11 FOR DEFENDANT GOOGLE, INC.:

12 KEKER & NAN NEST

13 BY: EUGENE M. PAGE, ESQ.

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15 San Francisco, California 94111

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17 emp@kvn.com

18  
19 Also present:

20 Sean Grant, Videographer

21 Andrew Temkin, In-house counsel for Oracle

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PETER KESSLER,

after having been duly sworn, testified as follows:

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THE VIDEO OPERATOR: Good afternoon. We are  
on the record. The time is 2:30 p.m., and the date is 02:30  
February 16, 2012. This is the videotaped deposition  
of Dr. Peter Kessler.

My name is Sean Grant, here with our court  
reporter Sandy Hockin. We are here from Veritext  
National Deposition and Litigation Services at the 02:30  
request of counsel for the defendants. This  
deposition is being held at Morrison Foerster in  
Palo Alto, California.

The caption of the case is Oracle America,  
Inc. versus Google, Inc. Case number is CV 10-03561 02:30  
WHA.

Please note that audio and video recording  
will take place unless all parties agree to go off the  
record. Microphones are sensitive and may pick up  
whispers, private conversations and cellular 02:31  
interference.

At this time, will counsel and all present  
please identify themselves beginning with the witness.

THE WITNESS: I am Peter Kessler.

MR. NORTON: Fred Norton of Boies, Schiller & 02:31

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[illegible]

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[illegible]

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1 A. I'm not sure there was anything after that.

2 Q. So you finished this project on a Wednesday?

3 A. That's my recollection, yes.

4 Q. Okay. When you ranked the patents, were you

5 assigned a particular group of patents to rank, you 03:16  
6 yourself?

7 A. No. That was done in the group.

8 Q. Okay. So the group as a whole went through  
9 and said 1, 2 or 3?

10 A. Yes. 03:16

11 Q. Was there consensus on every patent?

12 A. On many of them, there was consensus. Where  
13 there was a disagreement, we would discuss them.

14 Q. Who generally made the call if there was  
15 disagreement? 03:16

16 A. There weren't any disagreements -- I don't  
17 remember any disagreements that had to be settled by a  
18 "call." So we were always able to reach consensus on  
19 what the rankings meant.

20 Q. Okay. Had you seen any of the patents that 03:17  
21 you were ranking prior to this exercise?

22 A. Yes.

23 Q. Which ones?

24 A. I don't remember them specifically. Several  
25 of them are my patents. I certainly had seen those. 03:17

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[illegible]

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[illegible]

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[REDACTED]

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[illegible]

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[illegible]

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[illegible]

[illegible]

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[REDACTED]

[REDACTED]

[REDACTED]

4 MR. PAIGE: Okay. With that I think I have  
5 no further questions for you today. Thank you for 04:20  
6 your time, Dr. Kessler. I appreciate it.

7 MR. NORTON: I have just a couple of  
8 questions for the witness. Rather than -- actually,  
9 I'll go ahead and take Mr. Paige's chair, although I  
10 just need a couple minutes, I think. 04:20

11 (Discussion off the record.)

12 EXAMINATION

13 BY MR. NORTON:

14 Q. Dr. Kessler, I'll just try to take no more  
15 than a few more minutes of your time. 04:20

16 A. Thank you.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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1 STATE OF CALIFORNIA ) ss:  
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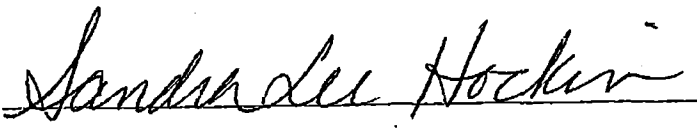
3 I, SANDRA LEE HOCKIN, C.S.R. No. 7372, do hereby  
4 certify:

5 That the foregoing deposition testimony was  
6 taken before me at the time and place therein set  
7 forth and at which time the witness was administered  
8 the oath;

9 That the testimony of the witness and all  
10 objections made by counsel at the time of the  
11 examination were recorded stenographically by me,  
12 and were thereafter transcribed under my direction  
13 and supervision, and that the foregoing pages  
14 contain a full, true and accurate record of all  
15 proceedings and testimony to the best of my skill  
16 and ability.

17 I further certify that I am neither counsel for  
18 any party to said action, nor am I related to any  
19 party to said action, nor am I in any way interested  
20 in the outcome thereof.

21 IN WITNESS WHEREOF, I have subscribed my name  
22 this 17th day of February, 2012.

23  
24   
25 SANDRA LEE HOCKIN, C.S.R. No. 7372